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OFFICE OF PETITIONS

In re Application of :
Manabu Kato : CORRECTED DECISION
Application No. 08/951,635 : ON PETITION
Filed: 17 October, 1997 :
Attorney Docket No. 35.C11250CON :

This is a decision in reference to the "Request for Clarification of Decision on Petition" filed on 20 December, 2002, which is considered a supplement to the petition under 37 CFR 1.182, filed by facsimile on 26 September, 2002, requesting entry of an amendment to the specification to insert a reference to an earlier-filed application pursuant to the provisions of 35 U.S.C. § 120.

The petition is **GRANTED**.

The record discloses that a request for a Continued Prosecution Application (CPA) was filed on 24 August, 1998, and on 26 August, 1999. Pursuant to the provisions of 37 CFR 1.53(d)(1)(v), a request for a CPA is a request to expressly abandon the prior application as of the filing date of the request. A request for a CPA is the specific reference required by 35 U.S.C. § 120 to every application assigned the application number; however, the prior application failed to make a specific reference to the prior-filed applications, namely Application No. 08/522,118, filed on 31 August, 1995, prior to the abandonment thereof. Petitioners now request that the prior abandoned application be amended by inserting a reference to the earlier-filed applications. On 26 September, 2002, petitioners filed two amendments to include a reference to the prior-filed application in the first line of the specification following the title of the invention.

35 U.S.C. § 120 permits entry of a subsequent amendment to an abandoned application in applications filed prior to 29 November, 2000, to include the benefit of an earlier filing date for purposes other than prosecution.¹

In view thereof, the request for entry of an amendment to insert a reference to the above-noted earlier-filed applications is granted.

The amendments have been entered. No additional petition fee is due.

The application is being forwarded to Technology Center 2800 to await petitioners' response to the non-final Office action mailed on 13 August, 2002.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6918.



Douglas I. Wood
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attach: Corrected Filing Receipt

¹See Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136 (D.C.D.C. 1976).